

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

In the Matter of Permit 20003 (Application 28524)
Keith M. Chittenden, Bettina Chittenden and Benita Mirsky

ORDER REVOKING PERMIT

SOURCE: Unnamed Spring tributary to Blue Slide Creek thence Mattole River

COUNTY: Humboldt

WHEREAS:

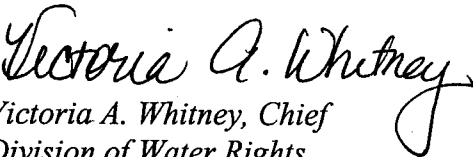
The facts and conclusions upon which the revocation is based are as follows:

1. The SWRCB issued Permit 20003 on January 29, 1987. The Division of Water Rights' (Division) records show Keith M. Chittenden, Bettina Chittenden and Benita Mirsky (Permittees) as the owners of Permit 20003. The permit authorizes the Permittees to divert water not exceeding 2000 gallons per day from October 1 of each year to April 1 of the succeeding year.
2. The permit requires that construction work be completed by December 1, 1989, and that the water be applied to the authorized use by December 1, 1990.
3. Permittees indicate in "Progress Report By Permittee For 1988" that construction work had not commenced.
4. The Permittees have not submitted annual Progress Reports of Permittee, which summarize water use and project status, as required by conditions in the permit since December 14, 1988.
5. The Division sent a Notice of Proposed Revocation by certified mail to the Permittees on May 27, 1998. It was returned as unclaimed.
6. On July 9, 2004, Permittees were provided a second notice by certified mail of the proposed revocation. The notice provided the Permittees the opportunity to object to the proposed revocation and request a hearing. The Permittees did not submit a request for a hearing to the Division.

Based on the above facts, the Division concludes that cause exists for revocation of Permit 20003 pursuant to Water Code section 1410(a) because work has not been commenced, prosecuted with due diligence, and completed and water has not been applied to beneficial use by Permittees in accordance with the permit.

THEREFORE:

It is ordered that Permit 20003 is hereby revoked by the SWRCB pursuant to Water Code section 1410, and the water is declared to be subject to appropriation. This revocation may not result in additional water being available for new appropriations if there are applicable restrictions due to past SWRCB decisions regarding water availability.


Victoria A. Whitney, Chief
Division of Water Rights

Dated:

MAR 07 2005

STATE OF CALIFORNIA

STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 20000Application 28796 of Consolidated Farms Inc.333 Bradford Street, Suite A, Redwood City, California 94063filed on February 10, 1986, has been approved by the State Water Resources Control Board SUBJECT TO VESTED RIGHTS and to the limitations and conditions of this Permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source:

Tributary to:

Two Unnamed StreamsCoyote Creek thenceSan Gregorio Creek thencePacific Ocean

2. Location of point of diversion:	40-acre subdivision of public land survey or projection thereof	Section *	Town- ship	Range	Base and Meridian
<u>By California Coordinate System, Zone 3:</u>					
<u>Reservoir No. 6: North 313,350 feet and East 1,459,300 feet</u>	<u>SE$\frac{1}{4}$ of SE$\frac{1}{4}$</u>	<u>2</u>	<u>7S</u>	<u>5W</u>	<u>MD</u>
<u>Reservoir No. 7: North 315,000 feet and East 1,462,200 feet</u>	<u>NE$\frac{1}{4}$ of SW$\frac{1}{4}$</u>	<u>1</u>	<u>7S</u>	<u>5W</u>	<u>MD</u>

County of San Mateo

*Projected

3. Purpose of use:	4. Place of use:	Section *	Town- ship	Range	Base and Meridian	Acres
<u>Stockwatering</u>	<u>SE$\frac{1}{4}$ of SE$\frac{1}{4}$</u>	<u>2</u>	<u>7S</u>	<u>5W</u>	<u>MD</u>	
	<u>NE$\frac{1}{4}$ of SW$\frac{1}{4}$</u>	<u>1</u>	<u>7S</u>	<u>5W</u>	<u>MD</u>	

The place of use is shown on map filed with the State Water Resources Control Board.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed a total of 4 acre-feet per annum to be collected from October 1 of each year to May 31 of the succeeding year as follows: (1) 2 acre-feet per annum in Reservoir No. 6, and (2) 2 acre-feet per annum in Reservoir No. 7. (0000005)
6. The amount authorized for appropriation may be reduced in the license if investigation warrants. (0000006)
7. Complete application of the water to the authorized use shall be made by December 1, 1990. (0000009)
8. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until license is issued. (0000010)
9. Permittee shall allow representatives of the State Water Resources Control Board and other parties as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit. (0000011)
10. Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.
- The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.
- The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust. (0000012)
11. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges. (0000013)

12. After the initial filling of the storage reservoirs, permittee's right under this permit extends only to water necessary to keep the reservoirs full by replacing water beneficially used and water lost by evaporation and seepage, and to refill if emptied for necessary maintenance or repair. Such right shall be exercised only during the authorized diversion season. (0000041)
13. This permit is subject to prior rights determined in the San Gregorio Creek Adjudication. (0500800)

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Dated: JANUARY 29 1987

STATE WATER RESOURCES CONTROL BOARD

Raymond Walsh
Chief, Division of Water Rights